

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CASE NUMBER: 10-20123
HONORABLE VICTORIA A. ROBERTS
Magistrate Judge Paul J. Komives

v.

DAVID BRIAN STONE, JR., et al.,

Defendants.

**ORDER ADOPTING MAGISTRATE'S
REPORT AND RECOMMENDATION**

On August 3, 2011, Magistrate Judge Paul J. Komives issued a Report and Recommendation (R & R) recommending that the Court deny three motions: (1) Defendant David Stone Jr.'s *Franks* Motion to Suppress (Doc. # 278) and related joinders (Doc. #s 279-84, 287, 339, 341); (2) Defendant Thomas Piatek's Motion to Quash Search Warrant (Doc. # 285) and related joinders (Doc. #s 288, 291, 296, 340); and (3) Defendant Joshua Stone's Motion to Suppress Search of 6021 Tomer Road (Doc. # 337) and related joinders (Doc. #s 338, 343, 346, 357). (Doc. # 391).

Piatek objects to the magistrate's recommendation that the Court deny his motion to quash. (Doc. # 398). Defendant Michael Meeks joins the objection. (Doc. # 403). Stone, Jr. objects to the magistrate's recommendation that the Court deny his motion to quash and request for *Franks* hearing. (Doc. # 405). Defendants Tina Stone (Doc. # 408) and Thomas Piatek (Doc. # 410) join.

Review of a magistrate judge's recommendation on a motion to suppress evidence is *de novo*. 28 U.S.C. § 636 (b)(1); Fed. R. Civ. P. 72 (b)(3). "The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72 (b)(3).

Magistrate Judge Komives held that the affidavits in support of the search warrants used to search Defendants' residences and vehicles established probable cause to believe that a search would uncover evidence of a crime or contraband. (Doc. # 391 at 15). The R & R describes the details and averments set forth in the affidavits supporting the search warrants that the magistrate says gave the issuing magistrate judges a substantial basis to conclude that Defendants were members of the Hutaree, shared its goals, and possessed evidence of a crime or contraband that would be found at their homes and other property searched. (*Id.* at 15-17, 18). The magistrate also rejected Defendants' contention that even if the affidavits established probable cause on their face, they contained material misrepresentations or omissions entitling Defendants to a *Franks* hearing. (Doc. # 391 at 19-27).

The Court conducted a *de novo* review. The Court agrees with the magistrate; the affidavits supporting the search warrants established probable cause for the searches. There was a sufficient nexus between the places to be searched and the evidence of crime to provide probable cause to issue the warrants. Additionally, Defendants do not establish that the warrants contained deliberately or recklessly false material statements or omissions and there is no need for a *Franks* hearing.

Magistrate Judge Komives' R & R is adopted; the Court **DENIES** Defendants' motions to suppress, for a *Franks* hearing, and to quash the search warrants.

IT IS ORDERED.

/s/ Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: October 5, 2011

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on October 5, 2011.

S/Linda Vertriest

Deputy Clerk